

Notice of Public Hearing
LSA Document #12-670**Notice of Public Hearing**

Under [IC 4-22-2-24](#), notice is hereby given that on June 10, 2013, at 6:00 p.m., at Mounds State Park, 4306 Mounds Road, Nature Center, Anderson, Indiana; **AND** on June 13, 2013, at 6:00 p.m., at Spring Mill State Park, 3333 State Road 60 East, Mitchell, Indiana, the Natural Resources Commission will hold public hearings on a proposed rule to amend [312 IAC 9-2-14](#) to clarify license exemptions with respect to estates and trusts, add [312 IAC 9-2-15](#) governing the use of hunter orange on ground blinds, amend [312 IAC 9-3-2](#) to clarify and add hunter orange and license requirements for hunting deer, amend [312 IAC 9-3-3](#) addressing equipment for hunting deer during the archery season and primitive muzzleloader season, amend [312 IAC 9-3-4](#) by adding a primitive muzzleloader season and lengthening the archery season, amend [312 IAC 9-3-14.5](#) governing possession of furbearing mammals, amend [312 IAC 9-3-15](#) to add the mute swan to the list of species that a resident landowner or tenant can take without a permit to protect property, amend [312 IAC 9-3-16](#) governing the taking and possessing of cottontail rabbits, amend [312 IAC 9-3-17](#) governing the taking and possessing of squirrels, amend [312 IAC 9-4-2](#) governing the taking, possession, and sale of migratory birds and waterfowl, amend [312 IAC 9-4-8](#) governing the hunting of ring-necked pheasants, amend [312 IAC 9-4-9](#) governing hunting of northern bobwhite quail, amend [312 IAC 9-4-14](#) by removing the peregrine falcon from the list of endangered species, amend [312 IAC 9-7-6](#) governing the taking and possession of black bass, amend [312 IAC 9-7-12](#) governing the taking and possession of walleye, amend [312 IAC 9-7-14](#) to remove lake whitefish from the list of fish for which there is no bag limit, possession limit, or size limit and adding requirements relating to roe from bowfin, amend [312 IAC 9-7-20](#) by adding requirements relating to roe from shovelnose sturgeon, add [312 IAC 9-7-21](#) governing the taking of lake whitefish, and amend [312 IAC 9-9-4](#) by adding the round hickorynut to the list of endangered species of invertebrates.

[312 IAC 9-2-14](#) is amended to clarify license exemptions for land owned as part of an estate or trust. With the current language, it is not clear as to who qualifies for a license exemption when the land is owned as part of an estate or trust, especially when the heirs to the estate and the trust do not even live on the property or pay taxes on the property. If the owner of farmland is comprised of a trust and the named trust beneficiaries are not comprised solely of the members of an immediate family, they would need to purchase hunting or trapping license. The changes would also not allow an heir of an estate to be exempt from needing a hunting or trapping license. In [312 IAC 9-2-15](#), hunter orange requirements are added for ground blinds when a hunter is required to wear orange to hunt that species of wild animal. Without this, a hunter who is required by state law to wear hunter orange can hide in a ground blind where the orange is no longer visible, creating a safety issue. This only will apply from one-half hour before sunrise to one-half hour after sunset, which are the same hunting hours for deer. In [312 IAC 9-3-2](#), the bonus antlerless license is added to the license types that a youth hunter can use during the special youth deer season. Since this only applies to nonresident youth and would not allow the youth to take an antlered deer, the DNR does not believe the sale of these licenses will increase because of this rule change. The other changes in this rule clarify license requirements for the new primitive muzzleloader season, clarify that hunter orange is only required in the locations where the special antlerless only season is authorized, and clarify the deer license bundle. DNR staff have been asked many questions about the deer license bundle, and these changes are intended to help clarify requirements. In [312 IAC 9-3-3](#) and [312 IAC 9-3-4](#), the new primitive muzzleloader season is being added at the request of the public through the DNR's public input process and is supported by the National Muzzle Loading Rifle Association. This new season will encourage those who use these primitive muzzleloaders to hunt during this special opportunity. This season should have no significant negative impact to the deer resource and is not needed to manage the population. It only provides an additional opportunity for traditional muzzleloader enthusiasts. The proposed opening of the archery season on September 15 is only to allow archery hunters an additional 15 days to hunt deer without crossbows. These additional days should have no significant negative impact to the deer resource and are not needed to manage the deer population, but simply give vertical bow hunters the opportunity to hunt prior to those using crossbows. In [312 IAC 9-3-14.5](#), the changes clarify what is currently allowed for trappers who capture furbearing mammals alive during the season. This rule was modified last year and created some confusion, thereby necessitating some changes to specify what can and cannot be done with a furbearer that is trapped during the season. A hunter or trapper does not need an additional license from the DNR to sell a furbearer that is taken during the season, so there is no fiscal impact as the result of this rule change. A trapper can currently sell a furbearing mammal alive during the season for that species of animal. In [312 IAC 9-3-15](#), the changes add the mute swan as a species that can be taken on private property by a resident landowner or tenant without a permit from the DNR. Currently, a nuisance wild animal control permit ([312 IAC 9-10-11](#)) is required to take a mute swan on private or public property. Additional changes clarify that methods that are not legal to use while trapping or otherwise taking wild animals

that are prohibited in [312 IAC 9-3-18](#) apply to wild animals taken under the authority of this rule. The changes in [312 IAC 9-3-16](#) modify the season dates for taking cottontail rabbits by adding two additional weeks in February and eliminating the early season on DNR properties. While the season would no longer be open in October, the season is being extended in February by two weeks. The change that starts the season on November 1 is needed because new research on DNR properties has shown that the rabbit breeding season runs from mid-February through September, with some young born or in nests through mid-October. This change would also make the hunting dates on public and private land concurrent. The starting date of November 1 would allow rabbit hunters an additional weekend to hunt prior to the start of the deer firearms season and would start the season after the average first frost for 86 of 92 counties, curbing issues with parasites. The change in the starting date of rabbit hunting to November 1 also aligns with the opening of the ring-necked pheasant and bobwhite quail seasons, which may alleviate some early pressure on quail and pheasants from opportunity (illegal) harvest. The changes in [312 IAC 9-3-17](#) modify the date when a person hunting squirrels must wear hunter orange since other rules in this package will change the starting date for rabbit, pheasants, and quail to November 1; clarify requirements for taking southern flying squirrels from the wild (these are currently allowed); and correct a reference in subsection (i). Southern flying squirrels can already be taken with the license types listed in subsection (e). Therefore, these changes will not have any fiscal impacts for state or local government or affect businesses. There are multiple changes in [312 IAC 9-4-2](#) governing migratory birds. The change to prohibit the possession of lead shot while hunting mourning doves on a department property is already prohibited in a DNR property rule in [312 IAC 8-2-3](#). Research has shown that the ingestion of lead by doves can result in their death, or if they survive, it can negatively affect their reproductive potential. At least 15 other states, including Illinois, require nontoxic (lead-free) shot for dove hunting on public land. State Fish and Wildlife Areas have not allowed the use of lead shot on dove fields for two years by posted signs at the properties. In 2008, the Division of Fish and Wildlife distributed educational materials to dove hunters at Fish and Wildlife Areas explaining the concerns about the use of lead shot and intent to allow only nontoxic shot in the future. Starting in 2009, Fish and Wildlife Areas began prohibiting the use of lead shot for hunting doves on their properties through posted signs as authorized in [312 IAC 8-2-1](#). State reservoirs also began an educational campaign and have been prohibiting the use of lead shot for dove hunting on their properties since 2010. All manufacturers of shotgun shells now have nontoxic shot available for use for hunting doves and most other species, and it is readily available. Lead shot can still be used to hunt rabbits, squirrels, quail, pheasants, and wild turkeys on most DNR properties. Federal regulations already prohibit the use of lead shot for hunting waterfowl. The ability to take Eurasian collared doves is needed in case of the accidental take of a Eurasian collared dove while hunting mourning doves and to help in the take of the exotic Eurasian collared dove. Eurasian collared doves are an exotic species and not common throughout the state. The provision in subsection (n), (o), (p), (q), (r), (s), (t), (u), and (v) specify requirements for the possession and sale of migratory birds. State law in [IC 14-22-6-2](#) requires a permit from the DNR to possess, take, or sell a migratory bird, and these provisions specify the requirements since state law no longer exempts federal permit holders. [IC 14-22-6-2](#) was changed recently to remove the exemption for federal permit holders, and the administrative rules are now needed to clarify requirements. Raptors can already be taken from the wild with the licenses/permit listed in subsection (n). Live migratory birds can be taken from the wild already with the permits and license issued in subsection (o). The Indiana DNR has never issued raptor propagation permits (subsection (p)) or a permit to breed and sell captive-bred waterfowl (subsection (r)), and is exempting these entities from needing a state permit since they are possessed, bred, and sold in accordance with federal law under a federal permit. To retain a live migratory bird, a number of permits and licenses are listed in subsection (q); these are already allowed by state law. The Division of Fish and Wildlife already issues free permits to trap and relocate or euthanize Canada geese; therefore, the language in subsection (t) is not a new requirement. The provisions for taking nuisance migratory birds in subsections (u) and (v) are already legal under the provisions listed. None of the permits or licenses are new, except for the migratory bird depredation permit, which is free of charge. The changes in [312 IAC 9-4-8](#) governing ring-necked pheasants shorten the season for hunting them on specific DNR properties by approximately two weeks. Pheasant habitat is disappearing across the Indiana range and our public lands in northern Indiana likely have or will become the reservoirs for pheasants to repopulate marginal habitat after significant weather disturbances. Wild pheasant populations are in decline across their range in Indiana and hen pheasant survival is of utmost importance. The season on DNR properties is proposed to end on the same date as for private land because hunters are unable to tell if they are harvesting wild or captive-reared hens on properties that likely have wild pheasants. If captive-bred hens survive the winter, they will compete with wild birds for resources and breeding, but they do not have the ability to successfully hatch and raise young themselves. Ring-necked pheasants are no longer common in the wild in Indiana, and are taken primarily on DNR properties during the put-and-take hunts as specified in subsection (c). The November 1 starting date will align the opening days for cottontail rabbits, ring-necked pheasants, and bobwhite quail. The changes to [312 IAC 9-4-9](#) governing bobwhite quail changes the season in the north zone, changes the dividing line between the north and south zones and reduces the bag limit in the north zone. The north zone will change to include all or parts of an additional 25 counties, thereby reducing opportunities for hunters in those counties by 22 to 28 days had they still been in the south zone by ending the season on December 15 instead of January 15. Hunters in the north zone

will also have a lower bag limit of four per day, instead of five. Due to calendar shift, the length of the south zone season currently varies between 67 and 73 days. By starting the south zone on November 1 and ending on January 10, the length of the south zone season will consistently run 71 days. The earlier starting date of November 1 for both the north and south zones would provide for a consistent statewide starting date and would also be proactive in reducing the potential for additive mortality without reducing season length. The change in the north and south zones fit both climate data and research/monitoring data more appropriately than the current boundary. Furthermore, the starting date of November 1 would allow quail hunters an additional weekend to hunt prior to the start of the deer firearms season and would start the season after the average first frost for 86 of 92 counties. The change in [312 IAC 9-4-14](#) removes the peregrine falcon from the list of endangered species. Following a successful restoration in the Midwest and Indiana, the population of peregrine falcons has increased steadily in Indiana and adjacent states. This species was removed from the federal endangered species list in 1999. The Bird Technical Advisory Committee, in its advisory role to the DNR's Division of Fish and Wildlife, established delisting criteria for this species in early 2011. These criteria are to have 16 occupied territories annually for three consecutive years with a minimum productivity level of 2.0 young /active nest. This goal was achieved in 2011 with 17 territories and productivity of 2.3 young/active nest. Historically, the number of peregrine falcons was 3-4 pairs and the initial goal of Indiana's restoration effort was to establish and maintain four pairs in the state. This species is still protected from being taken from the wild under state and federal law except with a special permit or license. The changes in [312 IAC 9-7-6](#) govern black bass taken at certain bodies of water. By removing Scales Lake in Warrick County from subsection (e), the size limit will be the statewide limit of 14 inches long (subsection (c)) and the bag limit will still be five per day. The key management objective at this lake is to provide a high quality bluegill fishery, in line with angler preference as measured at the lake. This change is expected to increase bass densities, which is the key to maintaining a balanced bluegill population that exhibits optimal growth rates. The proposed new 12-15 inch protected slot length limit for bass (standard five bass bag limit) with not more than two bass over 15 inches at Big Long Lake in LaGrange County is proposed to improve the bass fishing quality at this lake. The DNR has documented an overabundance of small bass over several years that limits bass fishing quality and threatens to negatively impact a very good bluegill fishery. Meetings with the lake association indicate their support for this proposal. There are many other lakes nearby that can be fished, and five bass will still be able to be taken per day, but with additional limits on the size of the fish that can be taken and no more than two will be able to be longer than 15 inches. The removal of Gibson Lake in Gibson County from the special size limit is needed because it was closed to public fishing by Duke Energy in 2007 based on selenium levels in the fish, and it does not appear it will reopen to public fishing. The change in [312 IAC 9-7-12](#) adds a special 16 inch walleye size limit and two walleye bag limit for Wall Lake in LaGrange County. This proposal is supported by the Wall Lake Fisherman's Association who funded the first three walleye stockings until the Division of Fish and Wildlife was in a position to assume this responsibility as planned. This plan to develop a walleye fishery to help combat a stunted, slow-growing bluegill population dates back to 2003. This is a unique situation where additional and larger predator fish can make a difference in not only adding good walleye fishing but could also improving bluegill fishing. Walleye harvest is currently believed to be limiting achievement of these objectives. The changes in [312 IAC 9-7-14](#) and [312 IAC 9-7-20](#) are needed to be consistent with state statute in [IC 14-22-13-2.5](#) regarding roe (eggs) taken from bowfin and shovelnose sturgeon. State law now allows the roe (eggs) to be harvested from these species of fish only with a roe harvester's license. Since bowfin and shovelnose sturgeon can be taken with a sport fishing license or roe harvester's license ([312 IAC 9-8-7](#)), these changes specify that only licensed roe harvesters can remove the roe from the fish, screen it, and sell it. These changes do not prohibit a person with a sport fishing license from being able to take bowfin and shovelnose sturgeon and eat the meat. There is also still no bag limit for either of these species. This language is also consistent with rule language in [312 IAC 9-8-7](#) governing the roe harvester's license that allows those license holders the ability to harvest, screen, wash, and sell the roe (later sold as caviar by licensed roe dealers). The changes in [312 IAC 9-7-15](#) would allow no more than 12 lake whitefish to be taken per day. Lake whitefish catches are becoming more common along our Lake Michigan shoreline and there currently is no bag limit. Illinois is preparing a 12 fish limit that will be consistent with this proposal. Lake whitefish are in the salmon family and in danger of being overharvested without any bag limit. The change in [312 IAC 9-9-4](#) adds the round hickorynut as an endangered species of mussel (invertebrate). The round hickorynut has seen a very drastic reduction in its distribution in Indiana. It once inhabited nearly 50 watersheds in the state, but it is likely now only reproducing in two: the Tippecanoe River (Marshall, Fulton, and Pulaski counties) and Richland Creek in Greene County. The round hickorynut is currently listed as a species of special concern in Indiana. Round hickorynut populations are vulnerable to a wide range of threats, including point and nonpoint source pollution, habitat alteration, and competition with exotics. Their limited mobility and the complexity of their reproductive strategy make them especially sensitive to the perturbations. The round hickorynut's current distribution is even more limited than some federally endangered (and state endangered) freshwater mussel species in the state. Endangered status would provide further protection to the few remaining populations of round hickorynut still found in Indiana. Furthermore, state law in [IC 14-22-34-11](#) requires the DNR to review the list of endangered species at least every two years and amend the list as considered to be appropriate. The DNR has the statutory authority to allow the

taking wild animals and to establish the methods, locations, and means of taking wild animals in [IC 14-22-2-6](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)". "Wild animal" is defined in [IC 14-8-2-318](#). The Natural Resources Commission has the statutory authority to adopt rules under [IC 14-10-2-4](#).

The benefits and costs of the proposed changes were obtained from staff of the DNR Divisions of Fish and Wildlife and Law Enforcement. Sources of information for determining costs and benefits were obtained from staff of the DNR Division of Fish and Wildlife and Law Enforcement. The number of rabbit, squirrel, quail, and pheasant hunters in Indiana was obtained from the DNR Division of Fish and Wildlife's 2011 survey of small game hunters. The number of falconry license holders was determined from the DNR Division of Fish and Wildlife's database of falconry license holders. The number of dove hunters in Indiana was obtained from the following source: Seamans, M. E., K. Parker, and T. A. Sanders. 2011. Mourning dove population status, 2011. U.S. Department of the Interior, Fish and Wildlife Service, Division of Migratory Bird Management, Washington, D.C. The number of anglers was determined from creel surveys on the lakes the Wabash River.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

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